

MONISHA S. SAMUEL,

V.

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HVM, LLC d/b/a STUDIO PLUS..

Defendant.

Defendant moves to dismiss Plaintiff's claims of national origin discrimination and sex discrimination under Title VII because Plaintiff failed to exhaust her administrative remedies with the EEOC and the Missouri Human Rights

Commission. Plaintiff concedes the motion with respect to national origin discrimination. The motion, therefore will be granted in this regard.

With respect to her sex discrimination claim, Plaintiff objects to the motion “to dismiss Plaintiff’s charge of sex discrimination pursuant to the Equal Pay Act.” Thus, it appears that Plaintiff is not claiming sex discrimination under the provisions of Title VII, rather, her claim is brought for sex discrimination under the Equal Pay Act. In the April 3, 2008 Opinion, the Court observed that Plaintiff made no allegations of sex discrimination in her wages, and therefore, she did not state a cause of action under the Equal Pay Act. Plaintiff’s new allegations of sex discrimination relate to her wages *vis a vis* male employees of Defendant and is alleging a claim under the Equal Pay Act. Insofar as Plaintiff does not appear to claim sex discrimination under Title VII, Defendant’s motion is moot. If however, Plaintiff does indeed seek recovery under Title VII, Defendant’s Motion is well taken based on the Court’s Opinion of April 3, 2008. Plaintiff has failed to exhaust her administrative remedies with respect to a sex discrimination claim under Title VII and has failed to set forth sufficient allegations to excuse such failure.

Accordingly,

IT IS HEREBY ORDERED that Defendant’s Motion to Dismiss, [Doc. No. 16] is granted with respect to Plaintiffs claim of national origin discrimination.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss Plaintiff's claim of sex discrimination under Title VII is granted insofar as this claim is brought under Title VII.

IT IS FURTHER ORDERED that Plaintiff's Equal Pay Claim survives Defendant's current Motion to Dismiss.

Dated this 27th day of June, 2008.

A handwritten signature in cursive script, reading "Henry Edward Autrey", written in black ink.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE